

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors:	Kevin Collins, et al.	Examiner:	Alicia Baturay
Serial No.:	09/858,080	Group Art Unit:	2441
Filed:	May 15, 2001	Docket No.:	10006721-1
Title:	Method and Apparatus to Manage Transactions at a Network Storage Device		

REPLY APPEAL BRIEF UNDER 37 C.F.R. § 41.41

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
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In response to the Examiner's Answer mailed April 27, 2011, Appellants file this Reply Brief in accordance with 37 C.F.R. § 41.41.

AUTHORIZATION TO DEBIT ACCOUNT

It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's deposit account no. 08-2025.

Allowable Subject Matter Based on Withdrawn Rejections

In the Examiner Answer, the examiner withdraws all rejections to claims 17, 18, 25, and 26. Appellants respectfully ask the BPAI to allow these claims since they are not subject to any rejections.

Claim Rejections: 35 USC § 101

In the Examiner Answer, the examiner argues as follows:

The "computer readable storage medium" limitation could not be considered a structural component based on the broadest reasonable interpretation of "computer readable medium," which encompasses non-statutory subject matter. The usage of the phrase "computer readable medium" is broad enough to include both "non-transitory" and "transitory" (moving electrons, etc) media.

This argument is flawed because it fails to give patentable weight to the term "storage" in the phrase "computer readable storage medium." The examiner removes the word "storage" and interprets the claim as only reciting "computer readable medium." Even assuming *arguendo* that a carrier wave could be a computer readable medium, a carrier wave could not be a computer readable storage medium that is included in a network storage device. Furthermore, claim 13 recites that computer readable program code resides in the storage medium. This recitation further shows that the computer readable storage medium is a tangible or physical thing since it resides in a network storage device and includes computer readable program code.

Claim Rejections: 35 USC § 103(a)

In the Examiner Answer, the examiner argues that Haumont at column 9, lines 26-29 teaches overriding an assigned priority based on data in a meta data field with a requested priority in a priority field. Appellants respectfully traverse.

Haumont at column 9, lines 21-29 teaches that flow labels are used to carry profile tags that indicate which flow and QoS profile a packet is associated with. This section further states that a “precedent could be indicated per packet, whereby it is not part of the QoS profile, or it overrides that value of the flow.”

The combination of Bailey in view of Mohaban and Haumont teaches a communication system in which packets are delivered according to a specified QoS. This QoS can be specified in the packet itself (i.e., in a priority field of the packet) or specified as a parameter associated with the packet. A precedence can override a value of flow for the packet, not override the QoS for the packet.

Claim 13 recites an incoming transaction that includes both a meta data field and a priority field with a requested priority. The claim further recites that a priority is assigned to the incoming transaction based on data in the metadata field. This priority, however, is overridden with the requested priority in the priority field.

Nowhere does Bailey in view of Mohaban and Haumont teach or even suggest that the specified QoS is based on data in a meta data field of the incoming transaction and then this specified QoS is overridden with a priority in a priority field of the incoming transaction. Instead, Bailey in view of Mohaban and Haumont teaches that the packet is delivered in accordance with the QoS assigned to the packet, but a flow (not the QoS) of the packet can be overridden with a precedence.

In the original appeal brief, separate arguments are presented for various claim groups in different sub-headings. Appellants respectfully ask the BPAI to consider the separate sub-headings and claims groups.

In view of the above, Appellants respectfully ask the BPAI to reverse the rejections of the examiner.

Respectfully submitted,

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